



In The Supreme Court of Bermuda
CRIMINAL JURISDICTION
2024: No. 20

B E T W E E N:

THE KING

-v-

WAHHAJ SHAKIR

Defendant

Appearances: **Mr Daniel Kitson-Walters and Ms Taneka King, Crown Counsel, for
the Prosecution**

Ms Victoria Greening, Resolution Chambers, for the Defendant

Date of Sentencing: 30th May 2025

SENTENCING REMARKS

Possession of a Prohibited Firearm - Unlicensed Possession of Ammunition - Having a Bladed Article in a Public Place

Richards J:

1. Mr Shakir, in the order in which they appear on the Indictment, I have to sentence you for offences of Having a Bladed Article in a Public Place, Possession of Ammunition Without a Licence and Possession of a Prohibited Firearm. Minimum sentence provisions apply to

all three of those offences under our Criminal Code and the Firearms Act 1973. It is, however, settled law, following the Court of Appeal's decision in *Cox and Dillas*¹ that such provisions are subject to the proportionality requirement of section 54 of the Criminal Code. To quote the Court of Appeal in the more recent case of *Christopher Perinchief*²: “if a judge is going to impose a sentence below the statutory minimum he or she can only do so on the grounds of disproportionality and it is only going to be an exceptional case where that will apply”.

2. On Count 1 the statutory minimum sentence in this court is 5 years' imprisonment and the statutory maximum is 7 years' imprisonment (section 315C(6)(b) of the Criminal Code).
3. On Counts 2 and 3 the statutory minimum sentence in this court is 12 years' imprisonment and the statutory maximum is 17 years' imprisonment (Schedule 1 of the Firearms Act 1973).
4. Since it is agreed that it would be appropriate to impose concurrent sentences in this case, the sentences I impose on Counts 2 and 3 will necessarily determine how long your overall sentence will be.
5. The Prosecution is seeking the imposition of the statutory minimum sentences in this case. In support of the correctness of such a disposal, they have referred me to the case of *Romano Mills*³, in which the Court of Appeal upheld the imposition of sentences of 12 years' imprisonment for the same two offences. The Appellant in that matter had entered what were described as “early” guilty pleas.
6. In response your Counsel Ms Greenig has highlighted some factual dissimilarities between that case and this. Mr Mills was in physical possession of the firearm and ammunition in that case, in addition to some drugs. He violently resisted police officers when arrested. He

¹ [2008] CA (Bda) 20 Crim

² [2022] CA (Bda) 23 Crim

³ [2015] CA (Bda) 17 Crim

also had some previous convictions, which you do not, but they were said to be of “*no relevance to the present sentence*”.

7. In my recent sentencing decision of *Jomari Gooden*⁴ (who was of previous good character, like you) I dealt with a factual scenario similar to *Mills*. I reviewed a number of past decisions of this Court.
8. In *Winston Paynter*⁵, the Defendant was convicted of possession of 6 rounds of ammunition (and no firearm) that were recovered from what the prosecution said was his home. They were discovered during a search precipitated by his arrest at another location. I was the prosecutor in that case and my now brother Wolffe J rejected my submission that the minimum sentence of 12 years’ imprisonment was appropriate. In that case His Lordship was obliged to impose another substantial custodial sentence for a drugs offence, which had to run consecutively to the ammunition sentence and so he reduced the total sentence, but he said clearly that the minimum sentence for the ammunition “*should really only be reserved for those who have pleaded guilty*”, reiterating a conclusion he reached in *James Rumley*⁶. That case involved importation of firearm parts, but no ammunition. In both *Paynter* and *Rumley*, this Court reached the conclusion that the appropriate sentence for the firearms offences was one of 14 years.
9. In *Gooden* I also considered the case of *Jaron Roberts*⁷ which, like *Mills* and *Gooden* concerned, mobile physical possession of a loaded gun. In that case Wollfe J imposed a sentence of 16 years’ imprisonment for the firearms offences. It is also important to note that Mr Roberts had a particularly relevant previous conviction. I therefore concluded that it would not be appropriate for Mr Gooden to receive a sentence quite as long as Mr Roberts did.

⁴ [2025] SC (Bda) 60 Cri

⁵ [2023] SC (Bda) 33 Cri

⁶ [2021] SC (Bda) 17 Cri – sentence upheld on appeal see: [2021] CA (Bda) 18 Crim

⁷ Indictment 26 of 2021

10. Having considered these authorities and some others, I came to the conclusion that the appropriate starting point in the *Gooden* case was 15 years' imprisonment, although I ultimately imposed slightly shorter sentences.
11. Your case is similar to *Mills*, *Roberts* and *Gooden* in that you had possession of both a functioning firearm and ammunition. However, it is dissimilar in that you were not in mobile physical possession. Your firearm and ammunition were discovered in your bedroom at home by police officers who were searching your house having arrested you elsewhere and found what they suspected to be controlled drugs on your person. As a matter of law, you were still in possession of those items, but this feature of the evidence does, in my judgment, mean that your case is not quite as serious as those three cases.
12. The Legislature has said that anyone convicted on indictment of possession of a firearm or ammunition should receive a sentence of not less than 12 years' imprisonment. It stands to reason, therefore, that, absent exceptional circumstances justifying a departure from the minimum, anyone who has *both* in their possession should expect to receive a longer sentence.
13. It also greatly troubles me that you were apparently sending messages and videos via SnapChat that included photographs of you posing with the gun and asserting that you had ammunition for it. At worst that was a declaration that you were ready to do something with the weapon, at best it was an attempt to glamorise this deadly object. There must be a reason why you thought to send shirtless photos of yourself posing with a gun in your hand or inside your waistband. You must have thought that that was something others would want to see and, sadly you were probably right about that. As a society we must do better. Unlawful guns should not be seen as cool or sexy. They are not to be glamorised. They have and continue to send far too many of this country's people and most especially its young men to untimely graves. That is why the Legislature has seen fit to enact mandatory minimum sentences and that is why, in all but exceptional circumstances, this Court will respect them.

14. You deserve credit for your guilty pleas. Experience shows that even when the evidence against them is strong, some Defendants put the system to the effort and expense of trying them and you did not. However, I do not think that your pleas demonstrate a particular keenness to own up to your actions. You were indicted in July last year and only pled guilty after the SnapChat videos were found on your phone and disclosed in March 2025. You knew those videos existed because you made them, but you were obviously hoping that they would not be found and that, in the absence of any forensic evidence, a jury might doubt your guilt and acquit you. In these circumstances, you do not deserve a full third discount on your sentence. However, the plea was not entered at the latest possible stage and it was communicated to the Court promptly in time to make alternative use of the court time. The most credit I would be prepared to afford you in these circumstances is a discount of 20%.
15. In *Christopher Perinchief* the Court of Appeal considered the impact of credit on the minimum sentence provisions. In that case the Court did reduce a sentence for possession of ammunition below the minimum, but it clearly did so because of the extraordinary “Covid discount” available at the time and not the regular discount for a guilty plea. In my judgment that decision affirms the practice of this Court not to impose sentences shorter than the minimum merely as a result of guilty plea discount.
16. In your allocutus you described your actions as “naïve”. I have to say that I think I would be the one who was being naïve if I were to accept that as an explanation for your offending. Loaded guns are thankfully still uncommon things in these islands and those who choose to have dealings with them prize them highly. You have not explained how you came into possession of these items, but it was not by chance or accident. You have clearly made some choices in your life that have brought you where you are today. Those were very bad choices. That said, in one respect, I believe your expressions of remorse are genuine. I believe that you do respect your mother and I believe that you are genuinely sorry for having let her down. It pains me that what I must do to you will hurt her and other members of your family, but the responsibility for that is ultimately, as I think you know, yours.

17. My hope for you is that this indictment has saved your life and not ended it. If that gun had never been found, you may have continued on a path that may have led you to commit more serious crimes or it may have led you to a violent and untimely death. When you are released at the end of these sentences please make different choices, if not for your own sake then for the sake of those who care about you.
18. Will you stand up please, Mr Shakir.
19. The sentencing range for these offences is, by operation of statute, 12 - 17 years. If I were sentencing you after trial, I believe that I would have taken as my starting point a sentence of 14 years on Counts 2 and 3. Giving you 20% off that for your pleas would result in a sentence slightly shorter than the minimum, but not such that I can properly say the minimum would be disproportionate. The sentence on Count 2 is, therefore, one of 12 years' imprisonment. The sentence on Count 3 is, therefore, one of 12 years' imprisonment. Those sentences shall run concurrently.
20. As to Count 1, Mr Gooden also fell to be sentenced for possession of a bladed article. Unlike you, however, he had both weapons (knife and gun) with him on his person when he was arrested. I, therefore, concluded that there was nothing disproportionate about the mandatory minimum sentence of 5 years' imprisonment. Your case is different, in that you only had the knife with you when you were arrested and the gun was elsewhere. If the latter had not existed or had not been found, you would have been sentenced for the knife only in the Magistrates' Court and, according to the prevailing sentencing practice, may not have received a custodial sentence. Against that background, I think it can properly be said that a 5-year sentence on Count 1 would be disproportionate and, although it will have no material effect, I therefore depart from the mandatory minimum in that respect. I impose a sentence which I consider to be proportionate on Count 1, which is one of 6 months' imprisonment, but that will of course run concurrently to the 12-year sentences on both Counts 2 and 3.

21. I direct that the time you have spent in custody shall count towards the total effective sentence in your case of 12 years' imprisonment.

Dated this 30th day of May 2025



THE HONOURABLE MR JUSTICE ALAN RICHARDS
PUISNE JUDGE